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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,988	03/14/2002	Cenneth Gunnarsson	33980R003	6433

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WASHINGTON, DC 20036

EXAMINER

RODRIGUEZ, JOSEPH C

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 01/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

10/070,988

Applicant(s)

GUNNARSSON, CENNETH

Examiner

Joseph C Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,8,11-13,16 and 18 is/are rejected.
- 7) ☒ Claim(s) 3,4,6,7,9,10,14,15,17,20 and 21 is/are objected to.
- 8) ☒ Claim(s) 19 are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Final Rejection

Applicant's arguments filed 10/27/03 have been fully considered but they are not persuasive for reasons detailed below.

The 35 U.S.C. 112 rejections are maintained or modified as follows:

Claim 11 recites the limitation "said drive means" (ln. 2). There is insufficient antecedent basis for this limitation in the claim.

The prior art rejections are maintained or modified as follows:

Claims 1-2, 5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Rapley (US '850).

As previously stated:

Rapley teaches an arrangement (Fig. 1) comprising an incoming conveyor (7) and a downwardly moving conveyor (5) with projecting carriers (4), wherein a curved guide space defined by guide rails (8,9) faces the incoming conveyor and curves downwards. Hereinafter, Applicant is respectfully reminded that claim language consisting of functional language and/or intended use phrasing is given little, if any, patentable weight as the apparatus must merely be capable of functioning, or being used, as claimed. See MPEP 2112.02, 2114. Here, the guide rails are regarded as capable of turning a timber piece downwards, the carriers are regarded as capable of inclining obliquely downwards during their operation and of forming a tangent with the curving path of the guide space.

Applicant's argument that Rapley fails to teach downwardly inclined carriers is not persuasive. Rapley teaches carrier tips (4) that are inclined obliquely downwardly during downward operations of the conveyor (Fig. 1, beneath sprocket 11). Here, it is also noted that the tips can be regarded as tangential to the guide space while rotating

around the sprocket (11). Further, since the tips function to carry materials downward, as previously noted, it is regarded as reasonable to regard these tips as carriers.

Therefore, as Applicant's arguments are unpersuasive, the claims stand finally rejected.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 12, 13, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rapley in view of Fluck (US '600).

Rapley as set forth above teaches all that is claimed except for expressly teaching stationary guide rails, wherein said guide rails may comprise inner or outer rails that diverge. This feature, however, is well-known in the conveying arts. For instance, Fluck teaches stationary inner and outer guide rails (Fig. 1, near 2 and 10) that diverge in a curved conveying space. Moreover, these rails can be regarded as a functional equivalent to the rails used by Rapley that one with skill in the art would use when seeking to convey different types and shapes of materials. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the invention of Rapley as taught above when seeking to convey different types and shapes of materials.

Claim Objections

Claims 20 and 21 are objected to because of the following informalities:

Claims 20 and 21 should read "**The** arrangement" (ln. 1).

Appropriate correction is required.

Allowable Subject Matter

Claims 3, 4, 6, 7, 9-10, 14, 15, 17 and 20-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 19 is allowed.

Examiner has maintained the prior art rejections, statutory rejections and drawing objections as previously stated and as modified above. Applicant's amendment necessitated any new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any references not explicitly discussed above but made of record are considered relevant to the prosecution of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph C Rodriguez whose telephone number is **703-308-8342**. The examiner can normally be reached on M-F during normal business hours (9 am – 6 pm, EST).

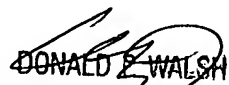
The **Official** fax phone number for the organization where this application or proceeding is assigned is **703-872-9326** (After-Final **703-972-9327**).

The **UnOfficial** fax phone number for the organization where this application or proceeding is assigned is **703-306-2571** or **703-308-6552**.

The examiner's **UNOFFICIAL Personal fax number** is **703-746-3678**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **703-308-1113**.

December 29, 2003


DONALD P. WALSH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3601